

## 37 Am. Jur. 2d Fraud and Deceit § 107

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### Fraud and Deceit

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### IV. False Representations

#### E. Falsity

## § 107. Substantiality; partial truths

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Fraud](#)  13(.5), 13(1)

### Trial Strategy

[Real Estate Broker's Liability for Misrepresentation of Income, Earnings, or Profits from Property Sold, 59 Am. Jur. Proof of Facts 3d 511](#)

[Liability of Seller in Residential Real Estate Transaction for Misrepresentation Under "As Is" Contract, 59 Am. Jur. Proof of Facts 3d 463](#)

Fraudulent representations may consist of half-truths calculated to deceive.<sup>1</sup> It is well established in some states that concealment of a material fact, when combined with a "half truth" or other misleading statement, is a ground for the rescission of a contract of sale.<sup>2</sup> A false statement required to prove fraudulent misrepresentation may include a half-truth which, although technically accurate, is misleading because it omits important qualifying information which, had it been known, would have caused the plaintiff to act differently.<sup>3</sup>

However, no relief on the basis of misrepresentations, either by way of rescission or recovery of money, will be given where the representations are not false in a material and substantial respect.<sup>4</sup> Thus, statements which are substantially true will not support an action for rescission or recovery of damages for deceit.<sup>5</sup>

Footnotes

- 1 [United Parcel Service Co. v. Rickert](#), 996 S.W.2d 464 (Ky. 1999); [Knights of Columbus Council 3152 v. KFS BD, Inc.](#), 280 Neb. 904, 791 N.W.2d 317 (2010); [American Empire Life Ins. Co. v. Long](#), 344 S.W.2d 513 (Tex. Civ. App. Eastland 1961), writ refused n.r.e., (June 14, 1961).  
A representation stating the truth so far as it goes but which the maker knows or believes to be materially misleading because of his or her failure to state additional or qualifying matter is a fraudulent misrepresentation. [Restatement Second, Torts § 529](#).
- 2 [Farnsworth v. Feller](#), 256 Or. 56, 471 P.2d 792 (1970).
- 3 [Integrated Genomics, Inc. v. Gerngross](#), 636 F.3d 853, 266 Ed. Law Rep. 48 (7th Cir. 2011) (applying Illinois law).
- 4 [Pedone v. Title Guarantee & Trust Co.](#), 280 N.Y. 153, 19 N.E.2d 1000 (1939).
- 5 [First Nat. Bank v. Level Club](#), 254 A.D. 255, 4 N.Y.S.2d 734 (1st Dep't 1938), judgment aff'd, 282 N.Y. 577, 24 N.E.2d 991 (1939).

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